THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 23rd day of March,2007

W.P.No.35340 of 1997

Between:-

N. Parvathamma & others … Petitioners

and

The Authority under Sec.33-C(1)
of the I.D.Act and Deputy Commissioner
of Labour, Hyderabad (Twin Cities)
RTC 'X' roads,
Hyderabad and another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.35340 of 1997

ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Order passed in Rc.No.E/4973/96, dated 16-5-1997 on the file of the 1st respondent and to quash the same as arbitrary, illegal, contrary to the letter and spirit of the Award made in I.D.No.195 of 1987 and batch on the file of the Labour Court, Hyderabad, which was confirmed by Judgment dated 31-10-1994 in W.A.No.93 of 1993 and violative of Article 14 and also principles of natural justice and consequently to declare that the petitioners are entitled to receive Rs.4,10,098/- towards back wages, bonus etc., deposited by the 2nd respondent-Management with the 1st respondent.

This *lis* has got chequered history. Therefore, before going into the merits, it may be necessary to notice the events in chronological order.

It appears, petitioners raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') challenging the Orders of termination of their services, in I.D.No.195 of 1987 and batch on the file of the Labour Court, Hyderabad, which were disposed of by a common Award made on 21-3-1991, wherein it was held that the removal/termination orders were bad in law and, therefore, the same were set aside and declared that the petitioners are entitled for reinstatement into service and further held as under:

"20. As regards the back wages, I am of the opinion that the

> petitioners are entitled for back wages on the basis of the daily wages rate prevailing at that time from the date of petitions and they must be treated to be in continuous service.
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> 21. As regards the other points raised in the petitions, I already stated in the above paragraphs, that this Court is not competent to give any direction to treat the petitioners as permanent on par with the permanent workers and to pay the difference in wages etc.
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> 22. In the result, the Award is passed holding that the termination of the services of the petitioners is illegal and the Management is directed to reinstate the petitioners into service with the back wage prevailing at that time on the daily wage rate from the date of these petitions."

Aggrieved by the same, the respondent-Management filed Writ Petition No.7551 of 1991 and the same was allowed by an Order dated 17-12-1992. Challenging the same, the petitioners herein carried the matter in appeal being W.A.No.93 of 1993 and a Division Bench of this Court allowed the said Writ Appeal on 31-10-1994 and confirmed the Award passed by the Labour Court.

In the meanwhile, petitioners were reinstated into service with effect from 19-5-1993. Since the Award passed by the Labour Court attained finality, petitioners filed Execution Petitions under Section 11-B of the Act. All the E.Ps were disposed of noticing that the petitioners were already reinstated into service; however, they were directed to file petitions under Section 33-C(2) of the Act so as to enable the Court to workout the amounts due to each of the petitioners and after the amount is ascertained by the Court, petitioners are at liberty to file execution petitions against the Management for appropriate relief. It appears, instead of approaching the Labour Court by way of a claim petition under Section 33-C(2) of the Act as suggested while disposing of the E.Ps., petitioners filed an application under Section 33-C(1) of the Act before the Deputy Commissioner of Labour, Hyderabad (Twin

Cities) seeking back wages etc., along with a calculation memo stating that they are entitled to receive from the Management a sum of Rs.4,10,098/- under the provisions of Chapter V-A of the Act and in terms of the Award dated 21-3-1991 passed by the Labour Court, Hyderabad in I.D.No.195 of 1987 and batch, as confirmed by a Division Bench of this Court in Writ Appeal No.93 of 1993, dated 31-10-1994.

Here, it may be noticed that, as stated above, petitioners were reinstated into service on 19-5-1993 itself. But, they have claimed wages even for the period beyond their reinstatement. According to the petitioners, their services were again terminated with effect from 10-8-1993; therefore, the period from 11-8-1993 to 9-6-1996 was also included for the purpose of back wages. This is absolutely ridiculous. If the services of the petitioners were terminated again, it is always open for them to challenge the same and seek appropriate relief as available under the law. It appears, N.Parvathamma, one of the petitioners herein, filed E.P.No.10 of 1995 on the file of Labour Court I, Hyderabad seeking execution of the Award made in I.D.No.195 of 1987 and for arrest of the Chief Executive of the Company and to detain him in civil prison till she is reinstated into service and payment is made, in the interests of justice. However, the same was dismissed. Being dissatisfied with the said order, Writ Petition No.299 of 1996 was filed. The said Writ Petition was, however, dismissed, observing as under:

> "…It is made clear that so far as the question of calculation and recovery of back wages is concerned with effect from 1-1-1986, it may be investigated and decided by the Labour-cum-executing Court in another execution petition, which is reported to be pending before it for disposal according to law."

Thereafter, petitioners seem to have moved the Authority

under Section 33-C(1) of the Act-cum-Deputy Commissioner of Labour, Hyderabad (Twin Cities) claiming an amount of Rs.4,10,098/- towards back wages, bonus and ex-gratia, apart from the amounts already paid by the respondents in pursuance of the Award i.e. Rs.1,75,000/-, which was withdrawn by the petitioners. The Authority has issued a notice on 26-11-1996 to the Management to deposit the claimed amount. The same was also sent to the Chief Judicial Magistrate, R.R.District, Saroornagar for recovery of the amounts as claimed by the petitioners. Aggrieved by the said order, respondent-management filed Writ Petition No.1149 of 1997 before this Court. However, this Court disposed of the Writ Petition observing that if the respondent-management is aggrieved by the order of the Deputy Commissioner of Labour, it is open to them to question the said order and Writ Petition was dismissed. Then the respondent has deposited an amount of Rs.4,10,098/- with the Deputy Commissioner of Labour, Hyderabad (Twin Cities) through Pay Order dated 30-1-1997. Thereafter, the case No.E/4973/1996 was heard on 11-3-1997, 21-4-1997 and 6-5-1997. Both parties argued the matter and the matter was disposed of on merits on 16-5-1997. It was found by the Authority that the petitioners worked for fixed number of days with the management and their claim for 365 days in year was not proper; therefore, came to the conclusion that the petitioners are entitled to an amount of Rs.1,79,592-02 instead of Rs.4,10,098/- as was claimed by the petitioners. Questioning the same, the present Writ Petition is filed.

There is no necessity of further going into all the details. Sri M.V. Bharathi, learned counsel for the petitioners, contended that the Deputy Commissioner of Labour having disposed of the E.P. filed by the petitioners awarding an amount of

Rs.4,10,098/- as claimed by them, ought not to have reviewed the order awarding an amount of Rs.4,10,098/-. The Deputy Commissioner of Labour has no jurisdiction to entertain such a petition filed by the Management and reconsider the matter. Whereas, Sri C.R.Sridharan, learned counsel for the respondent-Management, strenuously contended that when a notice was issued by the Authority initially on 26-11-1996, the same was challenged before this Court and this Court gave liberty to work out remedies available to the management. Therefore, the management deposited the amounts as required under the law. But, thereafter, the Deputy Commissioner himself gave a show cause notice asking the respondents as to why the amounts already deposited should not be disbursed to the petitioners. Thus, an opportunity was provided by the Deputy Commissioner himself while exercising his inherent powers. May be, the Deputy Commissioner entertained some doubt when the claim itself was for wages of 365 days in a year. The Management utilized the opportunity and filed detailed objections and those objections were considered and the E.P. was disposed of through the impugned Order holding that the petitioners herein are entitled to claim an amount of Rs.1,79,592.02. In fact, petitioners were all reinstated into service on 19-5-1993; therefore, they are not entitled for any back wages from that date, since the Award was implemented reinstating them into service. Of course, petitioners are entitled for wages upto 19-5-1993.

On verification of the claim petition filed before the Deputy Commissioner of Labour in Form No.K-1 (Rule 64(1) of the A.P. Industrial Disputes Rules,1958), it is seen that the petitioners have claimed back wages for the period beyond their reinstatement i.e. 18-8-1987 to 9-10-1996 totalling to an amount of Rs.5,47,130/-. After hearing the parties, the Labour Court came to the conclusion that

the petitioners are entitled to Rs.1,79,592.02 ps. As stated above, petitioners are not entitled for any wages beyond their reinstatement i.e. from 19-5-1993. May be, as contended by the learned counsel for the petitioners that the petitioners were again removed from service immediately after reinstatement. But, that does not mean that they are entitled for wages for that period. It is always open for the petitioners to raise another dispute as to their illegal termination etc., and seek proper relief, but they cannot claim wages beyond their reinstatement in pursuance of the Award passed by the Labour Court in I.D.No.195/87 and batch, dated 21-3-1991. The Judgment relied upon by the learned counsel for the petitioner in **PATEL NARSHI THAKERSHI v. PRADYUMANSINGHJI**[1] on the proposition that the power to review is not an inherent power and it must be conferred by law, either specifically or by necessary implication, has no application to the facts of this case. There cannot be any dispute as to the proposition laid down in the said case. But, in the instant case, the 1st respondent has not reviewed its order at all. In fact, a decision was made only after issuing a show cause notice and hearing the Management.

Under those circumstances, it cannot be said that the 1st respondent has reviewed its own Order passed earlier. The earlier Order passed was ordering to deposit the amounts and in fact the said amount was deposited and thereafter, a show cause notice was issued by the Deputy Commissioner himself, probably to make sure as to the entitlement of the petitioners as per law. Therefore, after considering the objections received from the Management, the Deputy Commissioner has rightly decided that the petitioners are not entitled for wages for the period beyond reinstatement i.e. 19-5-1993, in

pursuance of the Award passed by the Labour Court. The fact that petitioners were already paid Rs.1,75,000/- immediately after the disposal of the Writ Appeal is not in dispute. Apart from that, now, the Deputy Commissioner of Labour, after an elaborate consideration of the matter, rightly came to the conclusion that the petitioners are entitled for Rs.1,79,592.20ps. Therefore, the Order dated 16-5-1997 passed by the 1st respondent-Authority under Section 33-C(1) of the Act does not suffer from any legal or factual infirmity requiring interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

23-3-2007

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[1] AIR 1970 SC 1273